

**ORDINANCE NO. 08-12**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW REPLATTING OF PROPERTY INTO TWO SINGLE-FAMILY SUBSTANDARD-SIZED LOTS: LOT 1, HAVING A DEPTH OF 85 FEET AND A TOTAL AREA OF 6,671 SQUARE FEET, MORE OR LESS, WHERE AT LEAST 100 FEET IN DEPTH AND 7,500 SQUARE FEET ARE REQUIRED, AND WHEN PLATTED, TO ALLOW THE EXISTING SINGLE-FAMILY RESIDENCE TO REMAIN WITH A REAR SETBACK OF 14.1 FEET, WHERE AT LEAST 20 FEET ARE REQUIRED, AND LOT 2, HAVING A WIDTH OF 50 FEET, WHERE AT LEAST 75 FEET ARE REQUIRED, A DEPTH OF 80 FEET, WHERE AT LEAST 100 FEET ARE REQUIRED, AND A TOTAL AREA OF 4,000 SQUARE FEET, MORE OR LESS, WHERE AT LEAST 7,500 SQUARE FEET ARE REQUIRED, AND WHEN PLATTED, TO ALLOW THE PROPOSED SINGLE-FAMILY RESIDENCE WITH A REAR SETBACK OF 8 FEET, WHERE AT LEAST 20 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-348(a), 98-499 AND 98-502. **PROPERTY LOCATED AT 910 WEST 31 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of November 28, 2007 recommended approval of this ordinance; and

**WHEREAS**, the petitioner proffers a signed declaration of restrictive covenants agreeing to renovate the property according to the site plan submitted with the application, a copy of which is attached hereto and made a part hereof, to which the city accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 2:** The below-described property is hereby granted a variance permit to allow replatting of property into two single-family substandard-sized lots: Lot 1, having a depth of 85 feet and a total area of 6,671 square feet, more or less, where at least

100 feet in depth and a total area of 7,500 square feet are required, and when platted, to allow the existing single-family residence to remain with a rear setback of 14.1 feet, where at least 20 feet are required; and Lot 2, having a width of 50 feet, where at least 75 feet are required, and a total area of 4,000 square feet, more or less, where at least 7,500 square feet are required, and when platted, to allow the proposed single-family residence with a rear setback of 8 feet, where at least 20 feet are required, contra to Hialeah Code § 98-349(a), 98-499 and 98-502, which provide in pertinent part: “. . . no new plat shall be approved unless . . . lots in residential districts shall have a minimum average width of 75 feet and a minimum average depth of 100 feet, . . . All lots in R-1 one-family districts . . . shall have at least 7,500 square feet in area”, “The minimum building site in the R-1 one-family district shall be . . . at least 7,500 square feet of area . . . Such parcels or lots shall have an average width of at least 75 feet and shall also have a minimum average depth of 100 feet.” and “In the R-1 one-family district, every principal residential building shall provide a rear yard of a minimum depth of 20 feet to a rear lot line . . .,” respectively. Property located at 910 West 31 Street, Hialeah, Miami-Dade County, Florida, zoned R-1 (One Family District), and legally described as follows:

THE EAST 80.00 FEET OF THE NORTH 135.00 FEET  
OF TRACT 11, AMENDED PLAT OF BLOCKS 1 TO 12  
INCLUSIVE OF WEST HIALEAH HEIGHTS,  
ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 28, PAGE 39, OF THE  
PUBLIC RECORDS OF MIAMI-DADE COUNTY,  
FLORIDA.

**Section 3: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall

occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 5: Severability Clause.**


If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 12<sup>th</sup> day of February, 2008.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Esteban Bovo  
Council President

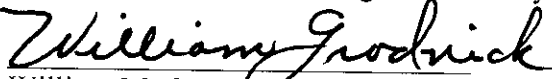
Attest:

Approved on this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Rafael E. Granado, City Clerk

**MAYOR'S SIGNATURE WITHHELD**  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney  
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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Munoz, Garcia-Martinez, Gonzalez, Hernandez and Yedra voting "Yes".

Ordinance was passed and adopted by the Hialeah City Council on February 12, 2008 and became effective February 26, 2008 without Mayor's signature.

**Prepared by and return to:**  
City of Hialeah  
Planning Division  
501 Palm Avenue, Second Floor  
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS  
(Individual)**

(I) (WE), Miguel Recalde

Being the owner(s) of lands described herein:

The East 80 feet of the North 135.00 feet of Tract 11, of Amended Plat of Blocks 1 to 12 inclusive West Hialeah Heights, according to the plat thereof, as recorded in Plat Book 28, Page 39, of the Public Records of Miami-Dade County, Florida.

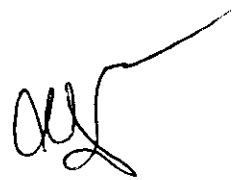
The street property address is 910 West 31 Street, Hialeah, Florida.

The folio number is 04-3012-017-0340

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The property will be renovated according to site plan prepared by Tri-County Engineering, Inc., dated September 26, 2007, the proposed window on the west side of one of the bedrooms will be eliminated and a new decorative fence will be provided.
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.



DECLARATION OF RESTRICTIVE COVENANTS  
(Individual)

IN WITNESS WHEREOF, (I) we have hereunto set out hands and seals at  
501 Palm Avenue this 7th day of Dec. 2007  
(location)

Signed, sealed and delivered in the  
presence of:

Isabel Campuzano  
Witness (2 Witnesses  
required)

Typed/Printed Name Isabel Campuzano

Miriam Coipel  
Witness:  
Typed/Printed Name MIRIAM COIPEL

Witness (2 Witnesses  
required)

Typed/Printed Name \_\_\_\_\_

Miguel Recalde  
Owner

Owner

Typed/Printed Name Miguel Recalde

Co-Owner

Co-Owner

Typed/Printed Name \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this 7th day of December 2007, before me, an officer duly  
authorized in the State of Florida and in County of Miami-Dade, to take acknowledgments, personally  
appeared Miguel Recalde and N/A To me known to be the  
person(s) described herein and who executed the foregoing instrument, and he/she/they acknowledged before  
me, under oath, that he/she/they executed same.

WITNESS my hand and official seal this 7 day of Dec. 2007

Patricia Chairen  
Notary Public, State of Florida  
PATRICIA CHAIREN  
MY COMMISSION # DD394525  
EXPIRES: May 23, 2009

(Name of Notary Public, State of Florida Stamp, or Type  
as Commissioned)

☒ Personally known to me, or  
☐ Produced identification:

Identification produced: \_\_\_\_\_

☐ Did take an oath  
☐ Did NOT take an oath